

UNITED STATES DISTRICT COURT
District of Maine

JOSEPH BELKSIS,

Plaintiff

V.

STATE OF MAINE BOARD OF CORRECTIONS,
THE COUNTY OF SOMERSET, MAINE MED PRO
ASSOCIATES, TERI THURLOW, THE UNITED
STATES MARSHAL SERVICE, ET AL,

Defendants

)
) Docket No. 1:15-cv-00091-JAW

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT SOMERSET COUNTY,
BARRY DELONG, STEPHEN GIGGEY, DAVID ALLEN, ELIGAH MUNN, CORY
SWOPE, AND DALE LANCASTER**

NOW COME Defendants Somerset County, Barry Delong, Stephen Giggey, David Allen, Eligah Munn, Cory Swope, and Dale Lancaster, by and through undersigned counsel, and hereby respond to the allegations contained in Plaintiff's Complaint as follows:

AFFIRMATIVE DEFENSES

A. Plaintiff's Complaint fails to state a cause of action upon which relief may be granted.

B. Plaintiff's damages were directly and proximately caused by the acts and/or omissions of an individual and/or entity other than these defendants.

C. Plaintiff's damages were directly and proximately caused by a legally sufficient superseding/intervening cause.

D. Plaintiff has failed to mitigate his damages as required by law.

E. The individual defendants are entitled to qualified immunity.

F. Plaintiff's claims are barred by provisions of the Prison Litigation Reform Act, including but not limited to 42 U.S.C. § 1997e(a) and/or 42 U.S.C. § 1997e(e).

ANSWER

Jurisdiction

These Defendants admit that the court has jurisdiction to hear this matter under 28 U.S.C. § 1331. These Defendants deny all additional allegations contained in the section entitled "Jurisdiction" in Plaintiff's Complaint.

Introduction

These Defendants deny all allegations contained in the section entitled "Introduction" in Plaintiff's Complaint.

Facts Common to All Counts

1. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

2. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

3. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

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deny same.

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9. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

10. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

11. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

12. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

13. These Defendants admit that the Plaintiff was transported to the Somerset County Jail on November 5, 2012. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

14. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

15. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

16. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

17. These Defendants admit that Plaintiff completed an inmate request form on December 6, 2012, asking about his diabetic orthotic footwear. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

18. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore

deny same.

19. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

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21. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

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23. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

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25. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

26. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

27. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

28. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

29. These Defendants admit that on December 28, 2012, Plaintiff was taken to Pine Street Orthopedics in Livermore Falls, where he was evaluated by Bruce McDonald. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

30. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

31. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

32. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

33. These Defendants admit that on January 10, 2013, Plaintiff was taken to MaineGeneral Medical Center in Waterville, Maine, where he was examined by Dr. Lisa Sauer. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

34. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

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38. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

39. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

40. These Defendants admit that on February 19, 2013, Plaintiff received new diabetic shoes. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

41. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

42. These Defendants admit that the Plaintiff was taken to Central Maine Orthopedics on March 1, 2013, to see Dr. Timoney. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

43. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

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50. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

51. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

52. These Defendants deny the allegations contained in this paragraph of Plaintiff's Complaint.

53. These Defendants admit that some of the standards in the "Detention and Correctional Standards for Maine Counties and Municipalities," are mandatory.

54. These Defendants deny the allegations contained in this paragraph of Plaintiff's Complaint.

55. These Defendants admit that various different officers accompanied the Plaintiff to his medical appointments. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

56. These Defendants deny the allegations contained in this paragraph of Plaintiff's Complaint.

57. These Defendants deny the allegations contained in this paragraph of Plaintiff's Complaint.

The Parties

1. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

The Defendants

2. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

The Municipalities - State of Maine

3. These Defendants deny the allegations contained in this paragraph of Plaintiff's Complaint.

Municipal Employees - Somerset County Command Staff

4. These Defendants admit that Barry Delong was the Sheriff of Somerset County and had final decision making authority with respect to all policy and operational matters at the Somerset

County Jail. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

5. These Defendants admit that Stephen Giggey held the rank of Captain at the Somerset County Jail. These Defendants deny the remaining allegations contained in this paragraph of Plaintiff's Complaint.

6. These Defendants admit that David Allen held the rank of Major at the Somerset County Jail and was previously the Jail Administrator. These Defendants deny the remaining allegations contained in this paragraph.

7. These Defendants admit that Eligah Munn held the rank of Sergeant at the Somerset County Jail. These Defendants deny all remaining allegations contained in this paragraph.

8. These Defendants admit that Cory Swope is currently the Jail Administrator of the Somerset County Jail. These Defendants deny all remaining allegations contained in this paragraph of Plaintiff's Complaint.

9. These Defendants admit that Dale Lancaster previously held the title of Chief Deputy and is currently the Sheriff of Somerset County. These Defendants deny the remaining allegations contained in this paragraph of Plaintiff's Complaint.

10. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

Medical Staff at Somerset

11. These Defendants are without sufficient knowledge or information so as to form a belief

as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

12. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

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17. These Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in this paragraph of Plaintiff's Complaint and therefore deny same.

Exhaustion of Administrative Remedies and Notice Requirements

These Defendants are without sufficient knowledge or information so as to form a belief as

to the truth of the allegations contained in these paragraphs of Plaintiff's Complaint and therefore deny same.

Causes of Action

Claims Against Municipalities

These Defendants deny the allegations contained in these paragraphs of Plaintiff's Complaint.

Claims Against Individual Municipal Officials

These Defendants deny the allegations contained in these paragraphs of Plaintiff's Complaint.

Claims Against Med Pro Associates

These Defendants deny the allegations contained in these paragraphs of Plaintiff's Complaint.

Claims Against the United States Marshal Service

1-8. These allegations do not pertain to these Defendants. To the extent that these Defendants are required to respond to any of the allegations contained in these paragraphs of Plaintiff's Complaint, these Defendants deny all such allegations.

Administrative Remedies

These Defendants deny the allegations contained in these paragraphs of Plaintiff's Complaint.

WHEREFORE, Defendants Somerset County, Barry Delong, Stephen Giggey, David Allen, Eligah Munn, Cory Swope, and Dale Lancaster request that all relief requested by Plaintiff be denied and that these Defendants be awarded their costs and attorneys fees incurred in defending this action.

Dated: May 26, 2015

/s/ Peter T. Marchesi
Peter T. Marchesi, Esq.

/s/ Cassandra S. Shaffer

Cassandra S. Shaffer, Esq.

Wheeler & Arey, P.A.

Attorneys for Somerset County Defendants

27 Temple Street, P.O. Box 376

Waterville, ME 04903-0376

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CERTIFICATE OF SERVICE

I, Peter T. Marchesi, Esq., attorney for the Somerset County Defendants, hereby certify that:

- Answer and Affirmative Defenses of Defendants Somerset County, Barry Delong, Stephen Giggey, David Allen, Eligah Munn, Cory Swope, and Dale Lancaster

has been served this day on Plaintiff by filing with the Clerk of Court using the CM/ECF system which will send notification of such filing(s) to the following:

Andrew Black, AAG (andrew.black@maine.gov)

Copies of the above documents have been provided to the Plaintiff via United States Mail, postage prepaid, at the following address:

Joseph Belskis
FMC Devens
P.O. Box 879
Ayer, MA 01432

Dated: May 26, 2015

/s/ Peter T. Marchesi
Peter T. Marchesi, Esq.
Attorney for Somerset County Defendants
Wheeler & Arey, P.A.
27 Temple Street, P.O. Box 376
Waterville, ME 04903-0376